

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

LEON STANTON,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:20-1685
	:	
v.	:	(JUDGE MANNION)
	:	
UNITED STATES OF AMERICA,	:	
<u>et al.</u>,	:	
	:	
Defendants	:	
	:	

ORDER

Pending before the court is the June 8, 2021 report of Magistrate Judge Mehalchick, which recommends that the *pro se* complaint, (Doc. 1-1), of plaintiff Leon Stanton, formerly an inmate at FCI Schuylkill, and presently confined at USP Allenwood, be dismissed without further leave to amend pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) and 28 U.S.C. §1915A for failure to state a claim. (Doc. 12). No objections have been filed to the report and recommendation and, the time within which they were due has expired. Upon review, the report will be adopted in its entirety.

By way of relevant background, plaintiff initially filed his complaint in the Schuylkill County Court and it was removed by the defendant United States to federal court on September 16, 2020. (Doc. 1). Judge Mehalchick

then initially screened the plaintiff's complaint on November 24, 2020, and determined that it failed to state a claim under Rules 8, 10, and 12(b)(6) of the Federal Rules of Civil Procedure. (Doc. 7). In her Memorandum, Judge Mehalchick detailed the many deficiencies of plaintiff's original complaint as well as instructing the plaintiff how to conform his complaint to the pleading requirements of Fed.R.Civ.P. 8 and 10. The judge also granted the plaintiff leave to file an amended complaint within 30 days, i.e., by December 24, 2020. (Doc. 8). Nonetheless, the plaintiff failed to file his amended pleading as directed by the court. Nor has plaintiff requested an extension of time to file his amended complaint. In fact, plaintiff has not filed any document in his case since March 15, 2021.

By way of the instant report, Judge Mehalchick has determined that, in addition to the failure of plaintiff to abide by her Order to file an amended complaint, his original complaint fails to properly state any cognizable claim.¹ As such, Judge Mehalchick recommends that the plaintiff's complaint be dismissed for failure to state a claim, and she recommends that any such dismissal be without further leave to amend since the plaintiff failed to cure

¹Judge Mehalchick's report also specifies the relevant legal standards of the Rules as well as the many violations of the Rules with respect to plaintiff's complaint which the court does not repeat herein.

the deficiencies of his original complaint after having been provided a previous opportunity to do so.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D. Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Upon review of Judge Mehalchick’s report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Mehalchick to her conclusions. As such, the court will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Mehalchick, **(Doc. 12)**, is **ADOPTED IN ITS ENTIRETY** as the decision of the court.

(2) The plaintiff's complaint, (**Doc. 1-1**), is **DISMISSED WITH PREJUDICE** for failure to state a claim under Fed.R.Civ.P. 8(a) and 12(b)(6).

(3) The Clerk of Court is directed to **CLOSE THIS CASE**.

S/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: July 20, 2021

20-1685-01